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Date: February 21, 2006 Client/Matter: 11460-130  
Attorney No: \_\_\_\_\_

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Examiner Zia R. Hashmi  
U.S. Patent and Trademark Office (571) 273-8300

From: John A. Hamilton Number of Pages (including cover): 6

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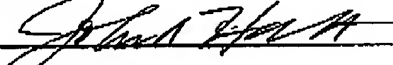
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<b>TRANSMITTAL FORM</b>  (to be used for all correspondence after initial filing)	Application Number	10/765,246
	Filing Date	January 27, 2004
	First Named Inventor	David R. Swenson
	Art Unit	2881
	Examiner Name	Zia R. Hashmi
Total Number of Pages in This Submission	Attorney Docket Number	11460-130

ENCLOSURES (Check all that apply)		
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Remarks _____		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Burns & Levinson LLP, formerly Perkins Smith & Cohen LLP		
Signature			
Printed name	John A. Hamilton		
Date	February 21, 2006	Reg. No.	48,946

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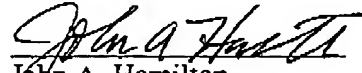
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Art. Docker No. 11460-130  
Comments on Reasons for Allowance

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John A. Hamilton  
Reg. No. 48,946

### IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: David R. SWENSON

Serial No: 10/765,246

Filed: January 27, 2004

For: METHOD OF AND APPARATUS FOR MEASUREMENT AND CONTROL OF A GAS CLUSTER ION BEAM

Examiner: Zia R. HASHMI

Art Unit: 2881

Conf. No.: 9561

BURNS & LEVINSON LLP

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To: Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

### Comments on Statement of Reasons for Allowance

Sir:

These comments are filed in response to the Notice of Allowance mailed 08 February 2006 and the associated Detailed Action dated 26 January 2006 including the Examiner's statement of reasons for allowance. The comments are being filed to correct a misstatement made in Applicant's 04 November 2005 reply to the most recent Office Action received regarding the above-identified application. This issue has already been discussed by phone with the Examiner, who advised Applicant's counsel that the error was not relevant to the reasons for allowance. No amendments are being requested, and the issue fee will be paid in a timely manner at a later date. No additional fees are believed necessary for submission and consideration of these comments, however, if additional fees are deemed necessary, such fees are authorized to be charged to our Deposit Account No. 03-2410, Order No. 11460-130.

Appl. No. 10/765,246  
Atty. Docket No. 11460-130  
Comments on Reasons for Allowance

**Comments begin on page 3 of this paper.**

**Comments:**

These comments are being filed related to a statement made in Applicant's 04 November 2005 reply to the 04 May 2005 Office Action (hereinafter, "the Reply") that was possibly inaccurate or unclear.

The last sentence of paragraph B(b) of the "Remarks" section of the Reply states:

*"He further avers that commercial apparatus and method embodiments of the presently claimed invention are now offered with each gas cluster ion beam processor that the assignee of the present application offers for sale."*

This statement is inaccurate, and stems from a misreading, by Applicant's counsel, of the last sentence in paragraph 7 of the Rule 132 Declaration submitted with the Reply:

*"The presently claimed invention has enabled new measurements that led to new understanding and subsequent incorporation of the pressurized gas cell into the commercial GCIB processing product."*

The error of the Reply relates to the assertion that the present invention is incorporated in the product that is offered for sale. It has not been widely incorporated into the assignee's products. Rather, it has been utilized on one gas cluster ion beam (GCIB) system in the assignee's development laboratory, and sold commercially as an upgrade in only one instance. A more accurate statement of facts is that the present invention was used to make GCIB characterization measurements that were previously not possible to make. As an outcome of those measurements, new insight into the nature of GCIBs, the effect gas in the GCIB path, and resulting change (improvement) in certain processing capabilities of the GCIBs due to gas interactions has resulted in the distinct invention of the "pressure cell." The "pressure cell" invention is disclosed in co-pending U.S. patent application serial number 11/084,632, assigned to the assignee of the instant application, and is now offered with each gas cluster ion beam processor that the assignee offers for sale.

The NIM-B journal paper submitted with the Reply, "Measurement of averages of charge, energy and mass of large, multiply charged cluster ions colliding with atoms", describes the use of the apparatus and methods of the present invention to make the measurements (Fig. 3,

Appl. No. 10/765,246  
App. Docket No. 11460-130  
Comments on Reasons for Allowance

the NIM-B paper) that led to the understanding that led to the "pressure cell" invention now incorporated in commercial products.

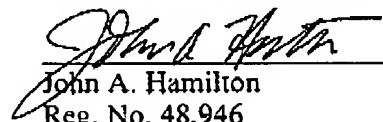
Applicant's counsel discussed the error described above with Examiner Hashmi in December 2005 and, based upon that conversation and upon the absence of any reliance on the misstatement in the reasons for allowance contained in the instant Notice of Allowance, Applicant understands that the misstatement has no bearing on the patentability of the application.

Please feel free to contact the undersigned with any questions at (617) 854-4000.

Dated: February 21, 2006

Respectfully submitted,  
DAVID R. SWENSON, Applicant

By:

  
John A. Hamilton  
Reg. No. 48,946  
Attorney for Applicant

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